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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,643	01/11/2000	Victor S. Moore	BOC990080US1	4561

7590 01/06/2003

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EXAMINER

RICE, KENNETH R

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/480,643	Applicant(s) Moore et al.
	Examiner Kenneth R. Rice	Group Art Unit 3627

*--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--*

#### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period of response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

- Responsive to communication(s) filed on 12/4/02.
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- Claim(s) 1-21 is/are pending in the application.  
Of the above, claim(s)        is/are withdrawn from consideration.
- Claim(s) 1-6, 9, 10, 14 and 15-21 is/are allowed.
- Claim(s) 7, 8 and 11-13 is/are rejected.
- Claim(s)        is/are objected to.
- Claims        are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsman's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on        is  approved  disapproved.
- The drawing(s) filed on        is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Status of Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - All  Some\*  None of the CERTIFIED copies of the priority documents have been
    - received.
    - received in Application No.       .
    - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received:       .

#### Attachment(s)

<input type="checkbox"/> Information Disclosure Statement(s), PTO-1449 <input type="checkbox"/> Notice of References Cited, PTO-892 <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948	<input type="checkbox"/> Interview Summary, PTO-413 <input type="checkbox"/> Notice of Informal Patent Application, PTO-152 <input type="checkbox"/> Other
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#### Office Action Summary

### PART III: REASONS FOR REJECTIONS AND OBJECTIONS

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 8 and 11-13 are rejected under 35 USC 102(b) as being clearly anticipated by Green et al.

Claims 1-6, 9, 10, 14 and 15-21 are allowable over the prior art of record.

Applicant's arguments filed December 4, 2002, have been fully considered but they are not deemed to be persuasive. Applicant argues that Green et al does not provide any geographic limitation and thus does not meet the proximate limitation of the claims. The system of Green et al is quite capable of being used proximate the merchants. Green et al states: "The user is thus provided with the opportunity to specify how the ordered products are to be conveyed. In FIG. 9, the user has activated a response icon 122 directing that the order be held for pick-up." (Column 12, line 66 to column 13, line 2.) In order to pick-up an order, the user would have to be proximate the merchant. The ability of the system Green et al to be used in both proximate and non-proximate locations does not invalidate the rejection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

The drawings filed December 4, 2002, are acceptable to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Rice at (703) 308-3495. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-1113.



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Kenneth R. Rice  
Primary Examiner  
Art Unit 3627